



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 30, 1994

Mr. Rick Perry
Commissioner
Texas Department of Agriculture
P.O. Box 12847
Austin, Texas 78711

OR94-806

Dear Commissioner Perry:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 26798.

The Texas Department of Agriculture (the "department") received a request for copies of all documents relating to certain closed investigations of pesticide related complaints. You contend that some of the requested information is excepted from required public disclosure under section 552.101 of the Government Code.

Section 552.101 excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." For information to be protected from public disclosure under the common-law right of privacy as section 552.101 incorporates it, the information must meet the criteria set out in *Industrial Foundation v. Texas Industrial Accident Board*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). The *Industrial Foundation* court stated that

information . . . is excepted from mandatory disclosure under Section 3(a)(1) as information deemed confidential by law if (1) the information contains highly intimate or embarrassing facts the publication of which would be highly objectionable to a reasonable person, and (2) the information is not of legitimate concern to the public.

540 S.W.2d at 685; Open Records Decision No. 142 (1976) at 4 (construing former V.T.C.S. art. 6252-17a, § 3(a)(1)). In *Industrial Foundation*, the Texas Supreme Court considered intimate and embarrassing information such as that relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. 540 S.W.2d at 683.

We have reviewed the documents submitted for our consideration. Although the complaints list symptoms of illness alleged to be caused by exposure to pesticides, we believe that the information is neither intimate nor embarrassing and there is a legitimate public interest in it. See Open Records Decision No. 370 (1983) (*Industrial Foundation* specifically rejected claim that *all* medical information may be withheld by common-law privacy). Accordingly, you must release the requested information in its entirety. If you have questions about this ruling, please contact our office.

Yours very truly,



Loretta R. DeHay
Assistant Attorney General
Open Government Section

LRD/LBC/rho

Ref.: ID# 26798

Enclosures: Submitted documents

cc: Mr. Craig Taliaferro
Ball & Weed
Trinity Plaza II, Suite 500
745 East Mulberry
San Antonio, Texas 78212-3191
(w/o enclosures)

Ms. Elaine L. Fannin
Assistant General Counsel
Texas Department of Agriculture
P.O. Box 12847
Austin, Texas 78711
(w/o enclosures)